IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 4TH JUNE 2007 / 14TH JYAISHTA 1929

Crl.MC.No. 1763 of 2007()

CC.521/2004 of JUDL.MAGISTRATE OF FIRST CLASS, KOLENCHERRY

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PETITIONER: ACCUSED NO.1 TO 4

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1. RAJU, S/O MATHAI, KOTTANATHU,
   VELOORKARA, VARIKOLY, ERNAKULAM.

2. KURIACHAN, S/O MATHAI, KOTTANATHU,
   VELOORKARA, VARIKOLY, ERNAKULAM.

3. LISSY, D/O MATHAI, KOTTANATHU,
   VELOORKARA, VARIKOLY, ERNAKULAM.

4. ANNAKUTTY, W/O MATHAI, KOTTANATHU,
   VELOORKARA, VARIKOLY, ERNAKULAM.

BY ADV. SRI.V.V.JOSHI

RESPONDENTS: DEFACTO COMPLAINANT & COMPLAINANT

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1. REENA @ JUNY, D/O ELIAS,
   OLIPPARAMBIL HOUSE, ERIVELIKKARA,
   CHOTTANIKKARA, ERNAKULAM.

2. STATE OF KERALA, REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,ERNAKULAM.

BY ADV. SRI.SUBAL J.PAUL FOR R1
PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 04/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1763 of 2007

Dated this the 1st day of June 2007

O R D E R

The petitioners are accused 1 to 4 in a prosecution interalia for the offences punishable under Section 498A I.P.C. Proceedings were initiated on the basis of a private complaint filed before the learned Magistrate which was referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is complete. Final report has been filed and the petitioners who are the husband, brother-in-law, mother-in-law and sister-in-law of the first respondent/complainant have been arrayed as accused. The matter is pending before the learned Judicial First Class Magistrate Court-I, Kolencherry. The petitioners, along with the first respondent have come before this court with this petition to apprise this court of the fact that they have settled their disputes amicably and that the first respondent does not want to further prosecute the complaint.

2. The disputes have been settled. Marital tie has been dissolved. Orders have been obtained from the Family Court. Joint statement has been filed by the petitioners and the first respondent to confirm that the disputes have been settled and the alleged offence compounded by the first respondent.

3. I am satisfied from the averments made in the Criminal Miscellaneous Case, submissions made at the Bar and the joint statement made by the contestants that the parties have settled their disputes amicably and they are residing separately now, as per agreement, after the marital tie was dissolved. If legally permissible, I am satisfied that the composition can be accepted and proceedings brought to premature termination.

4. But the offence under Section 498A I.P.C is not compoundable. The learned counsel for the parties rely on the decision in B.S.Joshi vs. State of Haryana [AIR 2003 SC 1386]. That decision is authority for the proposition that the interests of justice may, at times, transcend the interests of mere law and in such a situation, provisions of Section 320 I.P.C cannot fetter the width, sweep and amplitude of the extraordinary inherent jurisdiction under Section 482 Cr.P.C. I am satisfied that the said dictum is squarely applicable in the facts and circumstances of this case. I am satisfied that the prosecution can be brought to premature termination.

5. In the result, this Criminal Miscellaneous Case is allowed. C.C.No.521/04 pending before the Judicial First Class Magistrate Court-Kolenchery against the petitioners is hereby quashed.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007